

each of the Saturdays, Sundays, and national holidays shall be excluded from the computation of the prescribed or allowed period.

(b) *Entry of orders.* In computing any time period involving the date of the issuance of an order or decision by a hearing officer, the date of the issuance is the date the order or decision is served on the parties by the hearing officer or Docket Clerk.

(c) *Service by mail.* If a document is served by mail, 3 days shall be added to the time permitted for a response.

(d) *Extensions of time periods.* Except where mandated by statute, the hearing officer (or in the case of a review under §§ 26.26 and 26.27, the Secretary or designee) may upon motion enlarge the time within which any act required by these rules must be performed where necessary to avoid prejudicing the public interest or the rights of the parties.

#### § 26.12 Notice of administrative action.

In every case, there shall be a notice of administrative action. The notice shall be in writing and inform the party of the nature of that administrative action. The notice shall state the reasons for the proposed or imposed action, except where general terms are permitted by 2 CFR part 2424, and shall inform the party of any right to a hearing to challenge the administrative action, and the manner and time in which to request such hearing. A supplemental notice may be issued in the discretion of the initiating official to add to or modify the reasons for the action.

#### § 26.13 Complaint.

(a) *Respondent.* A complaint shall be served upon the party against whom an administrative action is taken, who shall be called the respondent.

(b) *Grounds.* The complaint shall state the legal and factual grounds upon which the administrative action is based. The grounds set forth in the complaint may not contain allegations beyond the scope of the notice of administrative action or any amendment thereto.

(c) *Notice of administrative action as complaint.* A notice of administrative action may serve as a complaint provided the notice states it is also a com-

plaint and complies with paragraph (b) of this section.

(d) *Timing.* When the notice does not serve as a complaint, the complaint shall be served on or before the 30th day after the referral to a hearing officer or a request for hearing is made, or within any other time period designated by the hearing officer.

#### § 26.14 Answer.

(a) Respondent shall file an answer within 30 days of receipt of the complaint, unless otherwise specified in this title or ordered by the hearing officer.

(b) The answer shall:

(1) Respond specifically to each factual allegation contained in the complaint;

(2) Specifically plead any affirmative defense; and

(3) Set forth any mitigating factors or extenuating circumstances.

(c) A general denial shall not be permitted. Allegations are admitted when not specifically denied in respondent's answer.

#### § 26.15 Amendments and supplemental pleadings.

(a) *Amendments.* (1) By right: The Department may amend its complaint without leave at any time within 30 days of the date the complaint is filed or at any time before respondent's responsive pleading is filed, whichever is later. Respondent may amend its answer without leave at any time within 30 days of filing of its answer. A party shall plead in response to an amended pleading within 15 days of receipt of the amended pleading.

(2) By leave: Upon conditions as are necessary to avoid prejudicing the public interest and the rights of the parties, the hearing officer may allow amendments to pleadings upon motion of any party.

(3) Conformance to evidence: When issues not raised by the pleadings, but reasonably within the scope of the proceeding initiated by the complaint, are tried by express or implied consent to the parties, they shall be treated in all respects as if they had been raised in the pleadings, and amendments of the